

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PROTEX INTERNATIONAL CORP., a New York
corporation,

Plaintiff,

CV 05-5355 (ADS)(ARL)

-against-

VANGUARD PRODUCTS GROUP, INC., an
Illinois corporation,

Defendant.

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LINDSAY, Magistrate Judge:

By letter dated February 21, 2007, plaintiff, Protex International Corp. ("Protex"), moves to compel the defendant, Vanguard Products Group, Inc. ("Vanguard"), to produce technical specifications and marketing materials for Vanguard's V-100 security system and any other security system having similar functionality. According to Protex, despite Vanguard's representation that these documents have already been produced, Protex is unable to locate them among the 70,000 documents produced by Vanguard. Thus, Protex requests that the court either compel Vanguard to re-produce these documents or direct Vanguard to identify these documents by Bates Number. Protex further seeks an award of attorney's fees incurred in connection with its efforts to secure these materials. Vanguard opposes this application stating that it has produced "all responsive documents in its possession known to exist," and that its production was made in accordance with Protex's request that its documents be scanned and produced electronically.

Rule 34 ordinarily requires that documents be produced either "as they are kept in the usual course of business" or "organize[d] and label[ed] [] to correspond with the categories in the request." Rule 34 also permits the parties to agree to a different methodology. Here, although the parties agreed that Vanguard's documents would be produced electronically, given the scope of this production it is not unreasonable to require that Vanguard identify the documents that correspond with this specific category. Thus, Vanguard shall identify the documents that relate to technical specifications and marketing materials for Vanguard's V-100 security system and any other security system having similar functionality. Protex's requests for attorney's fees is denied.

Dated: Central Islip, New York
March 6, 2007

SO ORDERED:

_____/s/_____
ARLENE R. LINDSAY
United States Magistrate Judge